

SAMUEL COZAD.

DECEMBER 29, 1835.

Read and laid upon the table.

MR. E. WHITTLESEY, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to which was referred the petition of Samuel Cozad, report:

That the petitioner states he was born in a fort at Hackens creek, Harrison county, Virginia; that, while bathing in said creek, on the 29th day of July, 1794, he, with three of his brothers, were taken prisoners by a party of Shawnee Indians; that the Indians killed the youngest brother on the spot, and carried the petitioner into captivity. He was, after a short time, sold to the Wyandots, and treated, as he alleges, with great barbarity, whereby his constitution was essentially impaired; so much so, that he has not been able to labor since. He states he was beaten, driven into a river in the depth of winter, and compelled to gather fire wood naked; and that he was mutilated by having his ears cut, and his nose bored.

He remained in captivity more than two years, and was eventually redeemed. He says, by reason of his captivity, and the redemption of himself and brothers, his father sustained a loss of at least two thousand dollars. He prays a compensation "in the shape of a pension, or in some other way, that his few remaining days may be passed free from the cares of poverty."

The material facts stated in the petition are sustained by the deposition of John Cozad, a brother of the petitioner. He further proves, that having found where the prisoner was, he went to the place and ransomed him, by giving the Indians forty-five dollars; that after he left the Indian camp, he was pursued, and a further sum demanded, and he was obliged to give twenty dollars more. Wane Long testifies to the fair character of the petitioner. The committee have examined with great care all the reports within their reach, to ascertain whether relief had been granted in an analogous case. The result of that investigation is here presented.

The first case found where application was made to Congress for remuneration of money paid for ransom and other expenses of prisoners taken by the Indians, is contained in a report made by the Secretary of War, to the Senate of the United States, on the 1st of May, 1792, on the petition of Samuel B. Turner. He was taken a prisoner by the Indians at Gen. St. Clair's defeat, on the 4th of November, 1791, and sent to Detroit, where he was ransomed through the influence of Major Smith, commanding officer of that post, for forty-two dollars. He incurred other expenses, and the object of the petitioner was, as stated by the Secretary, in his report, "to ob-

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tain from the public, in whose service he was captured, the expenses attending his captivity, amounting to two hundred and sixty-four dollars and forty-five cents." The report proceeds to state, "that the petitioner is equitably entitled to his pay and subsistence from the 4th of November, the time of his captivity, until the time of his arrival at his own home, amounting, probably, to about \$130, which he has received in part, some vouchers being wanting in order to ascertain the precise amount. That it was the custom during the late war, that officers who were taken prisoners continued to receive their pay and subsistence, during the time they remained prisoners: but it does not appear to have been the practice, that any extra expenses were paid, excepting for medical assistance, and the additional price of one-third the price of the ration allowed to officers not in captivity.

"To grant the prayer of the petitioner, in the extent claimed, would be to establish a new principle, unsupported by the practice of the late war."

The Secretary recommends, the petitioner be paid his pay and emoluments when in captivity, and submits the question of paying the ransom to Congress, "if it should not, after mature consideration, as a precedent, involve disagreeable consequences." It appears, from the journal of the Senate, that this report was laid on the table.

The next case is that of John Frank, 5th Congress, 2d session. He had been a soldier in the army of the revolution, and again under the command of General St. Clair, and again for three years under General Wayne, and was honorably discharged at Greenville, in the month of August, 1794. Within two hours after his discharge, while proceeding on his way to the State of New York, his place of residence, he was captured by the Miami nation of Indians; and was detained in bondage, suffering extreme hardships and cruelties, nearly three years, before he made his escape.

The committee recommended, that, as he was taken a prisoner immediately after his discharge, and from home, and in a situation at that time greatly exposed to attacks of the savages, he be paid as a soldier during the time of his captivity. An act was passed for his relief on the principles of the report, on the 20th of January, 1798; vol. 3, page 22.

The next case was that of Francis Duchauquet, at the 7th Congress, 1st session. It appears from the report, that in May, 1790, several citizens of the United States, in passing down the Ohio river, were captured by the Shawnee tribe of Indians; that one of the prisoners was put to death, by the most cruel tortures; and the others would, in all probability, have shared the same fate, had not the benevolent and seasonable aid of the petitioner, who was an Indian trader, been interposed. He generously paid the price of their enlargement. Those of the redeemed captives who were of sufficient ability amply reimbursed him the sums advanced on their behalf; the remainder, to the number of five, being in low and poor circumstances, never made the petitioner any pecuniary restitution. Relief was recommended, on the ground of the inability of the persons so ransomed to make him compensation. An act was passed accordingly. Vol. 3, page 457, L. U. S.

The next case was that of James Gilham, at the 9th Congress, 1st session. The petitioner asked the Government to reimburse certain expenses he had incurred in recovering his family from captivity amongst the Piankeshaw Indians.

The committee say, not being able to perceive on what principles the United States can be held liable to indemnify an individual in a case thus

circumstanced, are of opinion that the prayer of the petitioner ought not to be granted.

A case somewhat analogous to the one presented by the petitioner, in the cruelty at least, was brought before the 13th Congress, 3d session, by the petition of Joshua Penny, of East Hampton, in the State of New York.

The petitioner was taken on the night of the 22d of August, 1813, by a party of armed men from the ship *Ramilies*, commanded by Commodore Hardy, by force, from his bed, destitute of clothing except his shirt, and put on board of that ship, then lying off Gardiner's bay, where he was immediately put in irons and close confinement; was sent to Halifax, where he was imprisoned and badly treated till the 20th of May, 1814; and at that time was liberated, and sent to Salem, in Massachusetts, in a cartel. When in confinement he was fed on bread and water, and his treatment was wanton and cruel; he asked some compensation on account of his great and uncommon sufferings. The committee sympathized with the petitioner, and expressed their abhorrence of the conduct of the enemy, in violating the rules of civilized warfare, but could find no principle that would authorize the recommendation for relief.

The next case is that of Elizabeth House, at the 17th Congress, 1st session. Mrs. House was taken a prisoner by the Indians, in the summer of 1777, with her two infant children, in the county of Montgomery, and State of New York; her eldest child was murdered on the march, and she was compelled to perform a journey on foot, most of the way with her infant child in her arms, a distance of about 300 miles, to Fort Niagara; and on the journey the savages treated her and her surviving child with great inhumanity. At Niagara she was attacked with a fever, and her life despaired of for about two months. She was then taken to Detroit, remained a short time, and returned to Niagara, and was again taken ill of a fever. After her recovery, she was sold to Col. Johnston, of the British army, and remained with him about four years. When she was taken prisoner the Indians destroyed every thing in and about the house. Her husband, having ascertained where she was, reclaimed her. He died before the petition was presented, and without any remuneration from the State of New York, or the United States. The petitioner set up these facts, alleged her poverty, and prayed relief. The committee say, "your committee, however, consider it unsafe and inexpedient to afford the relief prayed for, even upon the supposition that all the facts stated are true. The sufferings of the petitioner, it is admitted, present strong claims upon our sympathies; but they are common to many others upon whom like cruelties have been practiced by the Indians. Allow this claim, and a principle is established, which makes the Government responsible for all the outrages which have been, or may be, committed by a savage enemy, upon the persons or property of our citizens; a principle, in the estimation of your committee, destructive to the resources of the nation."

This committee has been induced to go further into the examination of this subject than it would, but from the consideration, that the recent Indian depredations may lead to the presentation of similar applications for relief; and the desire to know what has been the practice of the Government in the like cases, is much increased. The committee is constrained, by precedent and principle, to reject the present claim, and submit the following resolution:

Resolved, The prayer of the petitioner ought not to be granted.